

REMARKS

Claims 36-95 are pending.

Objection to Specification

The specification was objected to for failing to refer to the priority applications. The objection is rendered moot by an insertion into page 1 of the specification. Withdrawal of the objection is requested.

Double Patenting

Claims 1-35 were rejected under 35 U.S.C. 101 as statutory double patenting over the claims of U.S. Patent NO. 5,744,161. The rejection is rendered moot by the Preliminary Amendment filed on September 24, 1998, four days before the Office Action was mailed. The Preliminary Amendment cancelled claims 1-35 (directed to a composition or method of using a piperine extract comprising at least 98% piperine) and added claims 36-95 (directed to a method of using piperine at any concentration). Since the invention of claims 36-95 is different from the invention of claims 1-35, there is no statutory double patenting over the claims of U.S. Patent NO. 5,744,161. Withdrawal of the rejection is requested.

Note: Informal interview Oct 1998

Applicants would like to thank the Examiner for a courteous interview over the telephone conducted in the third week of October 1998. Applicants would like to thank the Examiner for indicating that he would send a second non-final office action after applicants file a response. During the interview, the Examiner suggested that applicants file a Terminal Disclaimer. However, it is applicants' experience that no Terminal Examiner would be entered by the Patent Office unless there is an obviousness type double patenting made of record. In the instant case, no obviousness double patenting rejection has been made of record. As a result, without admitting that the invention of claims 36-95 is obvious over the claims of U.S. 5,744,161, applicants prefer not to file a terminal disclaimer now.

In the event this paper is not considered to be timely filed, the undersigned hereby petitions for an appropriate extension of time. In the event that any fees are due in connection with this paper, please charge our Deposit Account No. 14-1060.

Respectfully submitted,

NIKAIDO, MARMELESTEIN, MURRAY & ORAM LLP

King L. Wong

King L. Wong
Attorney for Applicants
Reg. No. 37,500

Attorney Docket No.: P8064-8002

Metropolitan Square
655 15th Street, N.W.
Suite 330 - G Street Lobby
Washington, D.C. 20005-5701
Tel. (202) 638-5000
Fax (202) 638-4810

KLW:klw/kg